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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/852,209	05/10/2001	Ulf Eriksson	1064/44740CP	3846

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EXAMINER
SPECTOR, LORRAINE

ART UNIT	PAPER NUMBER
1647	9

DATE MAILED: 08/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES DEPARTMENT OF COMMERCE
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DATE MAILED:

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☐ Responsive to communication(s) filed on _____.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire one month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-60 is/are pending in the application.
Of the above, claim(s) _____ is/are withdrawn from consideration.
☐ Claim(s) _____ is/are allowed.
☐ Claim(s) _____ is/are rejected.
☐ Claim(s) _____ is/are objected to.
☒ Claim(s) 1-60 are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
☐ The specification is objected to by the Examiner.
☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.
☐ received in Application No. (Series Code/Serial Number) _____.
☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of Reference Cited, PTO-892
☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
☐ Interview Summary, PTO-413
☐ Notice of Draftperson's Patent Drawing Review, PTO-948
☐ Notice of Informal Patent Application, PTO-152

--SEE OFFICE ACTION ON THE FOLLOWING PAGES--

* U.S. GPO: 1996-404-496/40517

Restriction Requirement:

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-26, 35, 37-40, 45 and 55, drawn to nucleic acids, vectors, host cells and expression, classified in class 435, subclass 69.1.

II. Claims 27 and 28, drawn to means for amplifying nucleic acids, comprising primers, classified in class 536, subclass 24.31.

III. Claims 29-34, drawn to antibodies, classified in class 530, subclass 387.9.

IV. Claims 36, 46, 47, 59 and 60, drawn to stimulation of cell growth using protein, classified in class 424, subclass 198.1.

V. Claims 41-44, drawn to heterodimeric protein, classified in class 530, subclass 399.

VI. Claims 48 and 49, drawn to induction of PDGFα receptor activity using protein, classified in class 424, subclass 198.1.

VII. Claims 50-52 and 56, drawn to inhibition of tumor growth using a PDGF-C antagonist, classification dependent upon species.

VIII. Claim 53, drawn to method of identification of antagonists of truncated PDGF-C, classified in class 436, subclass 501.

IX. Claim 54, drawn to method of identification of antagonists of PDGF-C cleavage, classified in class 435, subclass 7.1.

X. Claims 57 and 58, drawn to administration of PDGF-C antagonist to treat fibrosis, classification dependent upon species.

The inventions are distinct, each from the other because:

Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions operate differently, the former producing protein and the latter hybridizing to specific

nucleic acid sequences for amplification, and produce different effects, the production of protein and the production of nucleic acids, respectively. Accordingly, restriction is proper.

Inventions I and II are each unrelated to each of Inventions III-X, as the products of inventions I and II have different modes of operation, functions and effects from the products of Inventions III and Vas antibodies and protein have binding functions not found in nucleic acids, and have different effects thereby, and are separate and distinct from each of the methods of Inventions IV and VI-X, wherein the products are neither made by nor used in the methods. Accordingly, each requires separate search, and restriction is proper.

Inventions III and V are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have distinct amino acid sequences and therefore structure and mode of operation, and have different effects, the former binding to the latter, and the latter stimulating receptor signaling. Although the protein and antibody are related due to the necessary stearic complementarity of the two, they are distinct inventions because they are physically and functionally distinct chemical entities, because the production of the antibody does not require the protein of invention V, and because the protein can be used another and materially different process from the use for production of the antibody, such as in a pharmaceutical composition in its own right, or in assays for the identification of agonists or antagonists of the protein.

Invention III is distinct from and unrelated to Inventions IV, VI and VII-IX, wherein the antibodies of Invention III are neither made by nor used in the methods of Inventions IV, VI and VII-IX, and wherein each does not require the other.

Inventions III and X are related because *some* of the antibodies of Invention III may be used in the method of Invention X. However, Invention III is drawn to generic antibodies, only a small portion of which may be used in the method of Invention X, and Invention X does not require antibodies at all, but rather may be practiced with *any* antagonist, of any nature. Accordingly the inventions are distinct, each requires separate search, and restriction is proper.

Invention V is related to each of Inventions IV and VI as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the product may be used in either of the patentably distinct processes, or alternatively for the production of antibodies. At the same time, the methods to not require the product of Invention V Accordingly, each requires separate search, and restriction is proper.

The methods of Inventions IV and VI are related by virtue of using a common product. However, the methods are nonetheless distinct because the effects of the two methods are distinct; the former requires a biological endpoint (stimulation of cell growth), whereas the latter requires only binding to another protein. Accordingly, each requires separate search, and restriction is proper.

Each of Inventions IV and VI is separate and distinct from each of Inventions VIII and IX wherein each has different starting and ending points, involves different method steps, and produces distinct results. Accordingly, each requires separate search, and restriction is proper.

The method of Invention IV is separate and distinct from each of Inventions VII and X, wherein each has different starting and ending points, involves different method steps, uses distinct products and produces distinct results. Accordingly, each requires separate search, and restriction is proper.

The products of Invention V are separate and distinct from the methods of Inventions VII-X, wherein the products are neither made by nor used in the methods. Accordingly, each requires separate search, and restriction is proper.

Invention VI is separate and distinct from each of Inventions VII and X as the methods use distinct products for different purposes. Accordingly, each requires separate search, and restriction is proper.

Inventions VII and X are each separate and distinct from each of Inventions VIII and IX wherein each has different starting and ending points uses a distinct product, involves different method steps, and produces distinct results. Accordingly, each requires separate search, and

restriction is proper.

Inventions VII and X are related as distinct methods of using a common product. However, they are nonetheless distinct because they have different starting points, achieve distinct results, and require non-coextensive searches of the distinct conditions to be treated. Further, the common product may be used in distinct methods, such as the production of antibodies. Accordingly, restriction is proper.

Inventions VII and IX are separate and distinct because they utilize different products, and have different endpoints, requiring different detection means. Accordingly, each requires separate search, and restriction is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Advisory Information:

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Lorraine M. Spector, whose telephone number is (703) 308-1793. Dr. Spector can normally be reached Monday through Friday, 9:00 A.M. to 5:30 P.M.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Dr. Gary L. Kunz, at (703)308-4623.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist at telephone number (703) 308-0196.

Certain papers related to this application may be submitted to Group 1800 by facsimile transmission. Papers

should be faxed to Technology Center 1600 via the PTO Fax Center located in Crystal Mall 1 (CM1). The faxing of such papers must conform with the notices published in the Official Gazette, 1156 OG 61 (November 16, 1993) and 1157 OG 94 (December 28, 1993) (see 37 C.F.R. § 1.6(d)). NOTE: If Applicant *does* submit a paper by fax, the original signed copy should be retained by applicant or applicant's representative. NO DUPLICATE COPIES SHOULD BE SUBMITTED so as to avoid the processing of duplicate papers in the Office.

Official papers filed by fax should be directed to (703) 872-9306 (before final rejection) or (703)872-9307 (after final). Faxed draft or informal communications with the examiner should be directed to (703) 746-5228.

Lorraine Spector, Ph.D.
Primary Examiner